

IN THE MATTER OF	:	BEFORE THE
<b>SAVAGE STONE, LLC</b>	:	HOWARD COUNTY
	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 06-001S

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### **DECISION AND ORDER**

On September 18, 2006, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Savage Stone, LLC, Petitioner, for a variance to allow a 49 square foot, 3.5 foot tall commercial identification sign to be erected 15 feet from the road right-of-way in an M-1 (Manufacturing - Light) and MXD-3 (Mixed Use) Zoning District, filed pursuant to Section 3.513 of Subtitle 5 of Title 3 of the Howard County Code (the “Sign Code”).

The Petitioner certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Richard B. Talkin, Esquire, represented the Petitioner. Caleb Gould testified in support of the petition. No one appeared in opposition to the petition.

### **FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, I find the following facts:

1. The Petitioner is the owner of subject property, known as 8420 Baltimore Washington Boulevard (Route 1), which is located in the 6<sup>th</sup> Election District on the west side of Route 1 opposite Patuxent Range Road in Jessup (the “Property”). The Property is referenced on Tax Map 43, Block 19 as Parcels 234 and part of Parcel 235.

2. The Property is irregular in shape and consists of about 536 acres. The Property is the site of the “Chase Quarry” special exception use. The Property has frontage on Route 1 in three areas; the southern portion is the subject of this petition, which is the location of the main entrance to the site.

3. Vicinal properties include:

(a) To the north of the Property’s main entrance are M-1 zoned lots containing a two-story office building and a two-story building formerly housing Robinson’s Country Inn. The latter building is situated close to the right-of-way of Route 1.

(b) To the east of the Property across Route 1 is Patuxent Ridge Road and CE-CLI zoned lots improved with light industrial buildings.

(c) To the south is an unimproved B-2 zoned property.

(d) To the southwest is unimproved R-SA-8 zoned property.

4. The Petitioner proposes to erect a 3’6” high and 14’ wide freestanding commercial identification sign at the south side of the main entrance to the quarry site. The sign will be set between two 7’6” tall stone veneer faced pillars and read “Savage Stone.” The highest point of the sign board will be 6’6” above grade. The sign will be situated 15 feet from the Route 1 right-of-way, which is located about 28 feet from the edge of the Route 1 pavement. Under the Sign Code, the required setback is 49 feet from the road right-of-way in relation to the sign area and 7 feet in relation to the sign height.

5. Route 1 is a non-local, multi-lane, divided highway with a posted speed limit of 45 mph in the area of the Property.

6. The Robinson's Country Inn building located north of the Property's main entrance blocks the view of the required sign location for southbound Route 1 motorists. A thick stand of deciduous trees and a hill block the view of the required sign location for northbound Route 1 motorists.

### **CONCLUSIONS OF LAW**

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Fact, I conclude as follows:

**1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.**

The location of the Property on Route 1, a non-local, multi-lane divided highway with a speed limit of 45 mph, requires a high degree of visibility in order to allow motorists to identify the quarry site and make safe turning movements. In addition, the unusually wide right-of-way of Route 1 would result in a setback requiring the sign to be placed a total of 77 feet from the Route 1 pavement, an inordinate distance that would not allow motorists reasonable opportunity to see the sign. Consequently, the Property's location on a highway with a dependency on non-local use and the width of the Route 1 right-of-way are conditions

leading to practical difficulty and unnecessary hardship in complying strictly with the setback requirements of the Sign Code, in accordance with Section 3.513(b)(1).

**2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.**

The Robinson's Country Inn building located north of the Property's main entrance and the thick stand of deciduous trees and a hill located south of the entrance are obstructions on abutting properties that seriously interfere with the visibility of the proposed sign for motorists traveling northbound and southbound on Route 1. These obstructions result in practical difficulties and unnecessary hardship in complying strictly with the provisions of the Sign Code, as required by Section 3.513(b)(2).

**3. Or, that there are historical, architectural or aesthetic characteristics which shall be considered.**

There are no historical, architectural or aesthetic characteristics of the Property to be considered under section 3.513(b)(3).

**4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.**

The sign will be set back 43 feet from the Route 1 pavement. The closest vicinal properties are also commercial in nature or unimproved. Consequently, the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition as required by Section 3.513(b)(4).

**5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.**

The proposed sign is relatively modest in size and height for the Route 1 corridor. In order to be readily identified by both northbound and southbound motorists traveling at the

posted speed limit in sufficient time to make safe turning movements, the sign must be erected at its proposed location. The requested variance is therefore the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of the Sign Code, in accordance with Section 3.513(b)(5).

**6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.**

The practical difficulties are a result of the location of the Property on a highway with a dependency on non-local use, the width of the Route 1 right-of-way, and the location of the Robinson's Country Inn building north of the Property's main entrance and the thick stand of deciduous trees and a hill south of the entrance. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(6).

**ORDER**

Based upon the foregoing, it is this **11<sup>th</sup> day of October, 2006**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Savage Stone, LLC, Petitioner, for a variance to allow a 49 square foot, 3.5 foot tall commercial identification sign to be erected 15 feet from the road right-of-way in an M-1 (Manufacturing - Light) and MXD-3 (Mixed Use) Zoning District is hereby **GRANTED;**

**Provided, however,** that the variance will apply only to the uses and structures as described in the petition and plan submitted, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

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Thomas P. Carbo

Date Mailed: \_\_\_\_\_

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.